FISCAL NOTE

Bill #: SB0486 **Title:** Franchise tax on assets of large corporations

Primary Sponsor: Elliott, J **Status:** As Introduced - Revised

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$32,419	$0
Net Impact on General Fund Balance:	($32,419)	$0

☐ Significant Local Gov. Impact

☐ Included in the Executive Budget

☐ Dedicated Revenue Form Attached

☒ Technical Concerns

☒ Significant Long-Term Impacts

☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. This bill would provide for a new "franchise tax" on corporations operating in Montana. The tax would apply to corporations with *worldwide* assets of more than $1 billion, where assets are measured by the *total* property value reported for corporation license tax apportionment purposes. Under this bill the franchise tax would be equal to 0.33% of the amount reported as *Montana* property for corporation license tax apportionment purposes.
2. The following table shows the number of corporations operating in Montana with worldwide assets of more than $1 billion, the total value of Montana property of these corporations, the tax rate, and the tax liability that would have occurred under this bill for tax years 1995 to 2000:

Tax Liability Under SB486 - Tax Years 1995 - 2000

Tax Year	Number of Corporations with Worldwide Property of More than $1,000,000,000	Total Value of Montana Property	Proposed Law Tax Rate	Proposed Law Tax
1995	436	$14,591,245,696	0.33%	$48,151,111
1996	478	$14,637,716,679	0.33%	$48,304,465
1997	493	$14,613,812,058	0.33%	$48,225,580
1998	521	$16,654,612,609	0.33%	$54,960,222
1999	574	$16,315,162,628	0.33%	$53,840,037
2000	591	$16,804,368,276	0.33%	$55,454,415

3. The franchise tax proposed in this bill would have resulted in total tax liability of around $48 million during the period 1995-1997; and total tax liability of around $55 million during the period 1998-2000. It is assumed that the franchise tax liability under this bill would continue to be approximately $55 million each year under this bill.
4. This bill applies to corporate license tax periods beginning after December 31, 2003. The bill further provides that the tax is due and payable 30 days after the corporation is required to report corporation license tax liability under 15-31-111. For corporations whose tax year coincides with the calendar year, 15-31-111 provides that the return must be filed with the department on or before May 15 following the close of the calendar year. If the corporation is reporting on a fiscal year other than the calendar year, the return is due on or before the 15th day of the 5th month following the close of its fiscal year. However, 15-31-111 also provides corporations with an automatic extension of time for filing returns of up to 6 months without any obligation to report or pay tax on the earlier due date. Nearly all corporations take advantage of the 6-month extension of filing, and it is assumed that all of the corporations subject to the franchise tax provided for in this bill would do so. Given that the 6-month extension for corporation license tax purposes results in a due date of November 15, the franchise tax in this bill would be due 30 days later, or on December 15. Based on these considerations, the first payment of franchise taxes under this bill would not occur until December 15, 2005, or not until fiscal year 2006. Consequently, there is no impact on revenues from this bill in the 2005 biennium.
5. All revenue from the franchise tax proposed in this bill is deposited in the state general fund. Beginning in fiscal year 2006, this bill will increase revenues to the general fund by $55 million per year.
6. The Department of Revenue would require approximately 240 hours of additional staff and contracted services time to modify the existing corporation license tax processing system to accommodate the franchise tax provided for in this bill in fiscal 2004. An additional $1,200 of operating expense would be required to provide the forms and mailing notices needed to administer the tax also.

FISCAL IMPACT:	FY 2004 Difference	FY 2005 Difference
Expenditures:		
Contracted/Personal Services	$31,219	$0
Operating Expenses	$1,200	
TOTAL	$32,419	$0
Funding of Expenditures:		
General Fund (01)	$32,419	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	$(32,419)	$0

LONG-RANGE IMPACTS:
Under this bill, revenues to the general fund would increase by approximately $55 million annually, beginning with fiscal year 2006.

TECHNICAL NOTES:
1. The legislation currently reads that each corporation with worldwide assets in excess of $1 billion shall pay the franchise tax on the value of the corporation's assets in Montana. However, it is not clear whether this is tied to the filing method for Montana Corporation License Tax purposes. For example, a corporation could file on a separate company basis or on a water's edge basis and report total assets of less

than $1 billion even though they could exceed the $1 billion threshold on a "worldwide" basis. Also, the phrase "each corporation with worldwide assets" needs to be further defined. Does it mean an affiliated group, including each corporation owned in excess of 50%, along with their partnership interests?

2. Currently, the bill requires that the report be filed with the department *30 days after the corporation is required to report corporation license tax liability under 15-31-111*. It would be easier to administer if the filing requirements were the same as what is set forth in 15-31-111 (15^{th} day of the fifth month after the tax period end, with a six month extension). There is no reason why the filing of the franchise tax report could not coincide with the filing of the corporation license tax return.
3. Section 1, sub-section 2 of the bill provides that "The taxable value of assets is the value of all of a taxpayer's real and tangible property owned or rented *in Montana* in the production of business income, and the worldwide value of assets is the value of all of the taxpayer's real and tangible property owned or rented *in Montana* in the production of business income. The second reference to "in Montana" should be struck from the language, as worldwide assets are not just those assets in Montana.